

UNITED STATES DISTRICT COURT

for the
Eastern District of Pennsylvania

Case No. _____

(to be filled in by the Clerk's Office)

Elijah Thompson

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint.
If the names of all the plaintiffs cannot fit in the space above,
please write "see attached" in the space and attach an additional
page with the full list of names.)

-v-

See Attachment No. 1

Defendant(s)

(Write the full name of each defendant who is being sued. If the
names of all the defendants cannot fit in the space above, please
write "see attached" in the space and attach an additional page
with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS
(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should not contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include only: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

The Clerk will not file a civil complaint unless the person seeking relief pays the entire filing fee (currently \$350) and an administrative fee (currently \$50) in advance, or the person applies for and is granted in forma pauperis status pursuant to 28 U.S.C. § 1915. A prisoner who seeks to proceed in forma pauperis must submit to the Clerk (1) a completed affidavit of poverty and (2) a copy of the trust fund account statement for the prisoner for the six month period immediately preceding the filing of the complaint, obtained from and certified as correct by the appropriate official of each prison at which the prisoner is or was confined for the preceding six months. See 28 U.S.C. § 1915(a)(2).

If the Judge enters an order granting a prisoner's application to proceed in forma pauperis, then the order will assess the filing fee (currently \$350) against the prisoner and collect the fee by directing the agency having custody of the prisoner to deduct an initial partial filing fee equal to 20% of the greater of the average monthly deposits to the prison account or the average monthly balance in the prison account for the six-month period immediately preceding the filing of the complaint, as well as monthly installment payments equal to 20% of the preceding month's income credited to the account for each month that the balance of the account exceeds \$10.00, until the entire filing fee has been paid. See 28 U.S.C. § 1915(b). A prisoner who is granted leave to proceed in forma pauperis is obligated to pay the entire filing fee regardless of the outcome of the proceeding, and is not entitled to the return of any payments made toward the fee.

List of Defendants

Swift

Balden

Kimberly Johnson

Robert Mastnyak

John Doe

Jane Doe

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name Elijah Thompson
 All other names by which
 you have been known: _____
 ID Number 75287
 Current Institution Chester County Prison
 Address 501 S. Wawaset Road
West Chester PA 19382
City State Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name Swift
 Job or Title (*if known*) Correctional officer 1
 Shield Number _____
 Employer Chester County Prison
 Address 501 S. Wawaset Road
West Chester Pa 19382
City State Zip Code

☒ Individual capacity ☒ Official capacity

Defendant No. 2

Name Bolden
 Job or Title (*if known*) Correctional officer 1
 Shield Number _____
 Employer Chester County Prison
 Address 501 S. Wawaset Road
West Chester Pa 19382
City State Zip Code

☒ Individual capacity ☒ Official capacity

E.D.Pa. AO Pro Se 14 (Rev. 04/18) Complaint for Violation of Civil Rights

Defendant No. 3

Name

Kimberly Johnson

Job or Title (if known)

Sergeant Correctional Officer

Shield Number

Employer

Chester County Prison

Address

501 S. Wawaset RoadWest Chester
CityPa
State19382
Zip Code☒ Individual capacity ☐ Official capacity

Defendant No. 4

Name

See Attachment No. 2 for further

Job or Title (if known)

Shield Number

named Defendants' information

Employer

Address

City

State

Zip Code

☐ Individual capacity ☐ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐ Federal officials (a *Bivens* claim)☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Eight Amendment - U.S. Const. (Excessive force); Fourteenth Amendment - Due Process Clause

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

ATTACHMENT NO.: 2Defendant No.: 4Name: Robert MastrojakJob or Title: Lieutenant Correctional Officer

Shield Number: _____

Employer: Chester County PrisonAddress: 501 S. Wawaset RoadWest Chester
CityPa
State19382
ZIP Code☒ Individual Capacity☒ Official CapacityDefendant No.: 5Name: John Doe #1Job or Title: Correctional Officer

Shield Number: _____

Employer: Chester County PrisonAddress: 501 S. Wawaset RoadWest Chester
CityPa
State19382
ZIP Code☒ Individual Capacity☒ Official CapacityDefendant No.: 6Name: Jane Doe #1Job or Title: Correctional Officer

Shield Number: _____

Employer: Chester County PrisonAddress: 501 S. Wawaset RoadWest Chester
CityPa
State19382
ZIP Code☒ Individual Capacity☒ Official Capacity

Defendant No.: _____

Name: _____

Job or Title: _____

Shield Number: _____

Employer: _____

Address: _____

City_____
State_____
ZIP Code☐ Individual Capacity☐ Official Capacity

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

See Attachment No. 2

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- ☒ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☐ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (*explain*) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

Cellblock K-odd classroom area @ approx 1300 on November 24th, 2020

Defendant Correctional Officers Swift, Bolden, K. Johnson, R. Mestryak, and one John Doe and one Jane Doe violated Plaintiff's right to be free from cruel and unusual punishment as protected by the Due Process Clause of the Fourteenth Amendment, as Plaintiff is a pre-trial detainee, while employed by and on duty at Chester County Prison, thus acting under color of state and/or local law.

C. What date and approximate time did the events giving rise to your claim(s) occur?

November 24th, 2020 @ approx 1300

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

See Attachment No. 3

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

visible bruising, swelling and lacerations to face, head and wrists; strain to neck, back and shoulders.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

\$250,000.00 in punitive damages to hold officers accountable and create incentive in preventing similar conduct.
\$75,000.00 in compensatory damages for pain and suffering, past and future medical expenses and attorney/legal fees.

On November 24th, 2020 at approximately 1300 hours, Plaintiff, who was housed on cellblock K-odd, was allowed to come out of his cell to get in the shower. Plaintiff exited his cell and approached the control room to obtain his shower supplies. At this time, defendant Kimberly Johnson ("Johnson") opened the control room door while accompanied by defendants Swift ("swift") and Bolden ("Bolden"). Johnson threatened to have Swift and Bolden "drag your ass back to your cell and fuck you up" if he took too long in the shower. Swift then told Plaintiff "hurry up, you fat bitch." As he said this, he swung the bag of shower supplies toward Plaintiff who instinctively swung to defend what he assumed was an assaultive action, and inadvertently struck Swift. Immediately, Bolden began striking Plaintiff with closed fists as he exited the control room. Bolden's strikes pushed Plaintiff backwards into the dayroom area. Bolden continued to assault Plaintiff, who was making attempts to defend himself, while both Swift and Johnson cheered him on and encouraged Bolden. More officers arrived to assist in ending the altercation. Defendant Jane Doe ("Jane Doe") was assigned operation of a handheld camera to record subsequent activity, however, defendant Robert Mastnyak ("Mastnyak") instructed her not to activate it. After Plaintiff was subdued and handcuffs were applied, Mastnyak took control of restraining him. Mastnyak placed his knee on Plaintiff's upper back applying significant force while simultaneously pulling the applied handcuffs upwards, causing significant strain to his shoulders, wrists and back and impairing his ability to breathe to such an extent that he lost full consciousness. Immediately prior to losing consciousness, defendant John Doe ("John Doe") spit directly on the back of Plaintiff's head. After an unknown amount of time, Plaintiff regained consciousness on the floor of cellblock K-odd. He was escorted to medical by Mastnyak, John Doe, Jane Doe, Johnson and various other correctional officers. When entering medical and all doorways therein, as well exiting the same, escorting defendants intentionally struck Plaintiff's head thereon. After being assessed by medical staff, he was escorted to cellblock J-odd ("RHU") to cell 9 where he was placed on the floor and the handcuffs were removed. When Mastnyak was alone in the cell with Plaintiff, he removed Plaintiff's pants and undergarments. Mastnyak used one hand to roll Plaintiff on his sides and the other to spread his buttocks and lift and observe closely his penis and testicles. When inquired about what he was doing, Mastnyak stopped and wordlessly exited the cell leaving Plaintiff half-nude.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Chester County Prison

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

Any violation(s) of "civil, constitutional or statutory right" "criminal or prohibited act by staff" "Prison Policy"

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

Chester County Prison

2. What did you claim in your grievance?

The claims herein

3. What was the result, if any?

Denied

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. *(Describe all efforts to appeal to the highest level of the grievance process.)*

Appeal was denied, remedies deemed exhausted

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this “three strikes rule”?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

E.D.Pa. AO Pro Se 14 (Rev. 04/18) Complaint for Violation of Civil Rights

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

E.D.Pa. AO Pro Se 14 (Rev. 04/18) Complaint for Violation of Civil Rights

☒ Yes☐ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) Elijah Thompson

Defendant(s) Holmes, Miller, Cross, Reese and Baker

2. Court (if federal court, name the district; if state court, name the county and State)

U.S. District - Eastern District of Pennsylvania

3. Docket or index number

22-CV-3507-JP

4. Name of Judge assigned to your case

John R Padova

5. Approximate date of filing lawsuit

August 10, 2022

6. Is the case still pending?

☒ Yes

☐ No

If no, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

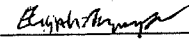
IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 9.14.2022

Signature of Plaintiff 
 Printed Name of Plaintiff Elijah Thompson
 Prison Identification # 75287
 Prison Address Chester County Prison 501 S. Wawaset Road
West Chester PA 19382
City State Zip Code

B. For Attorneys

Date of signing: _____

Signature of Attorney _____
 Printed Name of Attorney _____
 Bar Number _____
 Name of Law Firm _____
 Address _____

City State Zip Code
 Telephone Number _____
 E-mail Address _____

Eljohn Thompson K-19
501. S Wawaset Rd
West Chester, PA 19382

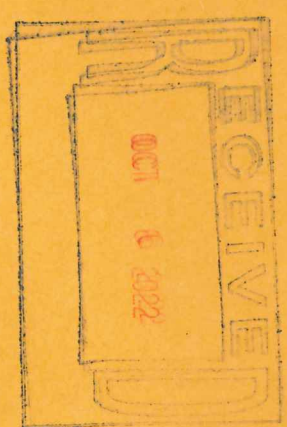
K-Block

+ 3.12



U.S.M.S.
X-RAY

EASTERN DISTRICT OF PENNSYLVANIA
OFFICE OF THE CLERK
UNITED STATES DISTRICT COURT
PHILADELPHIA, PA 19106-9865



quadrant
FIRST-CLASS MAIL
IM1
\$003.12
10/03/2022 ZIP 19382
043M31228302

US POSTAGE